

**CITY OF ETOWAH, TENNESSEE
COMMISSION MEETING**

Record of Minutes of Special Called **Meeting Date** December 3, 2012 **Sheet No.** _____

A special called meeting of the Etowah City Commission was held on Monday, December 3, 2012 at 5:00 p.m. in the Council Chambers of City Hall, 723 Ohio Avenue, Etowah, Tennessee. Members present were Mayor Jim Bull, Vice Mayor Matt Goodin, Commissioner Burke Garwood, Commissioner Dennis Morgan, and Commissioner Jim Swayne. Also present were Finance Director April Preston, and Recording Secretary Jamie Davis.

Mayor Jim Bull called the meeting to order at 5:00 p.m.

NEW BUSINESS

- a. Discussion and approval of the components of the liquor Ordinance.

City Attorney Russ Blair started the discussion regarding the sale of beer hours ordinance. We will be repealing and replacing Section 8-Chapter 2 of the Etowah Municipal Code. Certain hours are state regulated but we have a two hour option on Sunday. It is a local option to decide whether you start selling beer at 10 am or noon on Sunday. And to decide if we allow them to start selling beer at 6 am or 8 am from Monday thru Saturday.

A motion was made by Commissioner Dennis Morgan and seconded by Vice Mayor Matt Goodin to approve the sale of beer Monday through Saturday from 8 am until 3 am. The motion passed unanimously by a commission vote.

A motion was made by Commissioner Dennis Morgan and seconded by Commissioner Burke Garwood to approve beer sales on Sunday starting at noon. The motion passed by a 4-1 vote with Commissioner Jim Swayne voting nay.

City Attorney Russ Blair said this is technically just a formality and they do not have to wait on 2 readings. We are just exercising our local option in terms of hours.

The first reading of Ordinance regarding the hours of sale for beer was read by Mayor Jim Bull.

**AN ORDINANCE TO AMEND TITLE 8 OF THE ETOWAH MUNICIPAL
CODE BY AMENDING THE HOURS OF SALE FOR BEER**

A motion was made by Commissioner Dennis Morgan and seconded by Commissioner Burke Garwood to approve the Ordinance. The motion passed by a 4-1 vote with Commissioner Jim Swayne voting nay.

The first reading of Ordinance regarding liquor by the drink sales was read by Mayor Jim Bull.

AN ORDINANCE OF THE CITY OF ETOWAH, TENNESSEE REPEALING THE PROHIBITION OF INTXICATING LIQUOR SALES ON PREMISE AND ADOPTING A PRIVILEGE TAX ON RETAIL SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISE.

Liquor by the drink creates a new chapter in Section 8 of our code explained City Attorney Russ Blair. Section 8 Chapter 1 prohibited this but will be repealed by the package store ordinance. This creates a Chapter 3 to Section 8 which follows the Tennessee Annotated Code and there are no local options for this code. City Manager Matthew Gravley explained the Alcoholic Beverage Commission (ABC) sets the license fee and no permit is needed by us. Part of the application process for the state is that they come to us to complete a good moral standing section by the City which has no fee associated with it. Commissioner Burke Garwood said the state sets the distances and there is not one for the sell of liquor and the distance to a church.

A motion was made by Commissioner Burke Garwood and seconded by Vice Mayor Matt Goodin to approve the Ordinance. The motion passed by a 4-1 vote with Commissioner Jim Swayne voting nay.

Discussions began about package stores and how many we are going to allow. Commissioner Burke Garwood said he would have said 2 before last week but now he thinks that creates a monopoly by limiting it too. My opinion now is to let the market hull it out and not put a limit on it.

A motion was made by Commissioner Burke Garwood and seconded by Mayor Jim Bull to not limit the number of stores. The motion failed by a 3-2 vote with Vice Mayor Matt Goodin, Commissioner Dennis Morgan, and Commissioner Jim Swayne voting nay.

Vice Mayor Matt Goodin said he likes the idea of 1 store per 1500 people in the city limits and let the growth of the town determine the number of stores. Commissioner Jim Swayne said he agrees but still thinks we should only allow 2 stores. Commissioner Dennis Morgan ask what the most recent census was and Commissioner Burke Garwood said about 3400.

A motion was made by Vice Mayor Matt Goodin and seconded by Commissioner Jim Swayne to approve limiting the number of stores to 1 per 1500 people according to the last census. The motion passed by a 4-1 vote with Commissioner Burke Garwood voting nay.

Vice Mayor Matt Goodin excused himself from the remainder of the meeting.

Commissioner Dennis Morgan said that we need to require a minimum store size. Mayor Jim Bull ask if this was for retail area or for the whole store. City Attorney said we could set both storage and sales space if we wanted.

A motion was made by Commissioner Jim Swayne and seconded by Commissioner Dennis Morgan to require a minimum of 1800 square feet for the full store size. The motion passed unanimously by a commission vote.

Commissioner Burke Garwood said if you build new ones you have a chance of growth and other things building to it. Some of our buildings are going to look like a bar; I think a lot of our problems will be eliminated by requiring a new building. Commissioner Jim Swayne said it's all about the revenue and new stores will bring extra money. Commissioner Dennis Morgan thinks a 40 ft x 45 ft space (1800 sq feet) is a good area. City Manager Matthew Gravley said downtown is a central business district. And a possibility of a store downtown would ensure a commitment to downtown.

A motion was made by Commissioner Jim Swayne and seconded by Commissioner Burke Garwood to require new buildings. The motion passed with a 3-1 vote with Commissioner Dennis Morgan voting nay.

Commissioner Jim Swayne said he thinks a new building would be better because you have a historic district downtown and because of the Depot, Veterans Park, and public gatherings. Plus it ensures new tax revenue. As far as the inspection fee of 8%, the wholesaler would receive 5% of that fee. Commissioner Burke Garwood said if the inventory was \$10,000 then we get 8% which would be \$800 and the wholesaler would only get 5% of that which would be \$40. City Attorney Russ Blair explained how these fees are broken down per the TCA code.

Mayor Jim Bull ask if we want to deal with the footage from the properties, churches, parks, etc. Commissioner Dennis Morgan said yes. Commissioner Burke Garwood said we have primary churches in town and we need to recognize the established churches. These that come in and rent a building for a month or two should not qualify. Commissioner Dennis Morgan said we need to grandfather the existing churches. City Manager Matthew Gravley said you could state it must have a permanent location. Mayor Jim Bull said it would be difficult to put one down Tennessee Ave anywhere if you limit it to 500 feet.

A motion was made by Commissioner Burke Garwood to make the distance 150 feet from front door of a package store to front door of a church. Motion died for lack of a second.

Commissioner Jim Swayne said he thinks 150 feet is too light, I would go 300 feet or 500 feet. Commissioner Burke Garwood said think about this before you vote, 500 feet is too restrictive. You are taking your whole sellable area out of the picture; you are restricting it down to the east side of town.

A motion was made by Commissioner Burke Garwood and seconded by Commissioner Jim Swayne to make the distance 300 feet from front door of a package store to front door of a church. The motion passed unanimously by a commission vote.

Commissioner Burke Garwood said let's look at it with a little more of an expanded view. Sometimes there are city gatherings such as wedding or receptions that would like to have alcoholic beverages. Commissioner Dennis Morgan said what if we do 300 feet from the property line of the grounds to the

front door of the package store. Commissioner Burke Garwood said you have taken a lot of Tennessee Ave off again if you go with 300 feet.

A motion was made by Commissioner Dennis Morgan and seconded by Commissioner Burke Garwood to make the distance 200 feet from front door of a package store to property line of a public gathering place. The motion passed with a 4-1 vote with Commissioner Jim Swayne voting nay.

City Attorney Russ Blair stated that the hours are already set on package stores by the state which are 8 am until 11 pm Monday thru Saturday.

A motion was made by Commissioner Burke Garwood and seconded by Mayor Jim Bull to adopt the state hours. The motion passed unanimously by a commission vote.

The state recommends adopting days that prohibit sales include Christmas, Thanksgiving, New Year's Day, Labor Day, and 4th of July.

A motion was made by Commissioner Burke Garwood and seconded by Mayor Jim Bull to prohibit sales on the state recommended days. The motion passed unanimously by a commission vote.

Mayor Jim Bull said we need to discuss the minimum residency requirement and percentage of ownership that's required. Commissioner Jim Swayne ask if they will be allowed to sell to an outsider and City Attorney Russ Blair said no, they could sell to a city resident or close their doors. Commissioner Jim Swayne said I agree with this because they are a stakeholder in the community. Mayor Jim Bull said we could add a section regarding resell of the business.

A motion was made by Commissioner Dennis Morgan and seconded by Commissioner Burke Garwood to require a minimum of 2 years residence in the City of Etowah and must own 51% of the business. The motion passed unanimously by a commission vote.

Mayor Jim Bull said we need to discuss the annual investigation fee.

A motion was made by Mayor Jim Bull to charge \$500 the 1st year and \$1000 each year after. The motion died for lack of a second.

Commissioner Dennis Morgan said we need to keep the fee the same each year. City Attorney Russ Blair said we could adopt the maximum yearly fee or we could actually determine a fee.

A motion was made by Commissioner Dennis Morgan and seconded by Commissioner Burke Garwood to charge \$500 for the yearly investigation fee. The motion passed unanimously by a commission vote.

Mayor Jim Bull moved onto the license fee.

A motion was made by Commissioner Dennis Morgan and seconded by Commissioner Burke Garwood to charge \$500 per year for the license fee. Commissioner Dennis Morgan withdrew his motion.

A motion was made by Commissioner Dennis Morgan and seconded by Commissioner Burke Garwood to charge \$1000 the first year and \$500 per year thereafter for the license fee. The motion passed unanimously by a commission vote.

Discussions of when to have special called meetings to move forward were discussed and decided on for December 10th at 5:30 pm and December 27th at 5:30 pm. Our regular scheduled meeting is on December 17th at 6:30 pm and we could do the first reading of the package store ordinance. They also wanted to setup a workshop on December 27th at 5:45 to discuss options for the pool.

Mayor Jim Bull explained all applications have to be kept for 2 years and they have to act on it within 6 months. All application fees are non-refundable. And anyone in violation of this ordinance will receive a \$50 fine unless it gets into criminal fines and it would be more.

ADJOURNMENT

A motion was made by Commissioner Burke Garwood seconded by Commissioner Dennis Morgan to adjourn the meeting. The motion passed unanimously by a commission vote.

Jim Bull, Mayor

April Preston, City Recorder

Respectfully submitted by:

Jamie L. Davis, Recording Secretary